

**NOTICE OF PROPOSED ACTION
TO
BUILDING STANDARDS
OF THE
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT**

**REGARDING THE CALIFORNIA MECHANICAL CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 4**

Health Facilities Construction-Air Circulation

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Office of Statewide Health Planning and Development (OSHPD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 4. The OSHPD is proposing building standards related to air circulation in toilet rooms of hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from February 2, 2007 until 5:00 PM on March 19, 2007. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5 (a) 17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Sections 18949.3 and 130021.5 (a). The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Section 130021.5 (a). The OSHPD is proposing this regulatory action based on Health and Safety Code Section 130021.5 (a).

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 1226 authorizes OSHPD to prescribe, in consultation with the Community Clinics Advisory Committee, minimum building standards for the physical plant of clinics, for adoption in the California Building Standards Code.

Health and Safety Code Section 1275 authorizes OSHPD to adopt and enforce building standards for the physical plant of hospitals, skilled nursing facilities and correctional treatment centers.

Health and Safety Code Section 130021.5(a), enacted by SB 1659 (Chapter 678, Statutes of 2006), mandates that OSHPD propose amendments to the California Mechanical Code (CMC) that will facilitate the construction of toilet rooms which are accessible to persons with disabilities in hospitals and skilled nursing facilities. The California Building Standards Commission must deem the regulations as emergency regulations and adopt them as such. This statute is effective January 1, 2007, and will be repealed on January 1, 2008.

Summary of Existing Regulations

Currently, the 2001CMC Section 407.4.1.3 prohibits the use of corridors to convey supply, return or exhaust air to or from any room of a hospital, skilled nursing facility, licensed clinic or correctional treatment center. There is an exception to this requirement which does allow air from corridors to serve small rooms less than 30 square feet that are mechanically exhausted with access directly to a corridor. These small rooms are identified as toilet rooms, bathrooms, and janitor's closet. Additionally, the current requirements of 2001 CMC Section 602, Exception 1 repeat the current requirements of CMC Section 407.4.1.3.

Summary of Effect

The proposed regulations will amend 2001 CMC Section 407.4.1.3 to specify that corridors that are required to be of fire-resistive construction cannot be used to convey air to or from any room in the health facility. Additionally, Section 407.4.1.3, Exception No.1 is being amended and will allow air from corridors to serve toilet rooms up to 50 square feet and small rooms of 30 square feet or less (janitor's closets, housekeeping rooms, electrical or telephone closets) which are mechanically exhaust and that open directly onto corridors. The current provision allows this for only small rooms up to 30 square feet; however, toilet rooms must be accessible to persons of disabilities are larger than 30 square feet. The amendment will comply with Title 24 accessibility requirements. The ventilation requirements are not being changed.

Amendments to Section 602.1, which were intended to be the same as the requirements in Section 407.4.1.3, are being deleted, and replaced with a reference to Section 407.4.1.3.

The proposed regulations will result in construction cost savings of up to \$2,900 per toilet room and minor savings in annual energy costs.

Comparable Federal Statute or Regulations

There are no federal statutes or regulations that are comparable to these proposed regulations.

Policy Statement Overview

OSHPD is responsible for the development of regulations regarding the physical plant of hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers. The proposed amendments to the CMC will implement the requirements of SB 1659 (Chapter 678, Statute of 2006). This legislation added Health and Safety Code 130021.5 (a) which requires that OSHPD propose regulations to the CMC that will facilitate the construction of toilet rooms that are accessible to persons with disabilities in health facilities.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Pursuant to Health and Safety Code Section 130021.5(a), the proposed regulations are to be deemed as emergency regulations and adopted by the California Building Standards Commission as such.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OSHPD has determined that the proposed regulatory action will not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **Yes**
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: **No**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- D. Other nondiscretionary cost or savings imposed on local agencies: **Yes**
- E. Cost or savings in federal funding to the state: **No**

Estimate: The proposed amendment to CMC Section 407.4.1.3 that will permit air from the fire-resistive corridors to serve toilet rooms up to 50 square feet would be a cost savings for hospitals, skilled nursing facilities, licensed clinics and correction treatment centers. The savings would be up to \$2,900 per toilet room as the initial air duct and outlet material, fire/smoke damper, installation, air balancing, etc. would not be required pursuant to this amendment. Energy costs would also be reduced on average approximately \$75.00 per year per toilet room.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The OSHPD has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The OSHPD has not relied on any other facts, evidence, documents, testimony or other evidence to make its initial determination of no statewide adverse economic impact.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

(Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.)

A report applicable to businesses is not required by these regulations.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The OSHPD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The OSHPD has assessed whether or not and to what extent this proposal will affect the following:

The creation or elimination of jobs within the State of California.

These regulations will have no affect.

The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will have no affect.

The expansion of businesses currently doing business with the State of California.

These regulations will have no affect.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

OSHPD has made a determination that this proposal will not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

OSHPD has determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

**Thomas Morrison, Deputy Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833**

**Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959**

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

**Duane Borba, Supervisor, Health Facilities Review
Office of Statewide Health Planning and Development
Facilities Development Division
1600 Ninth Street, Room 420
Sacramento, CA 95814**

**Telephone: (916) 654-3139
FAX: (916) 653-2973
E-mail: regsunit@oshpd.ca.gov**